

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 46

HOUSE BILL 2113

AN ACT

AMENDING SECTIONS 20-611, 20-614 AND 20-631, ARIZONA REVISED STATUTES;
AMENDING TITLE 20, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING
SECTION 20-637; RELATING TO QUALIFIED FINANCIAL CONTRACTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-611, Arizona Revised Statutes, is amended to
3 read:

4 20-611. Definitions

5 For the purpose of this article:

6 1. "Ancillary state" means any state other than a domiciliary state.

7 2. "COMMODITY EXCHANGE ACT" MEANS THE FEDERAL COMMODITY EXCHANGE ACT
8 (7 UNITED STATES CODE CHAPTER 1).

9 ~~2-~~ 3. "Court" means, unless the context otherwise requires, the judge
10 of the superior court assigned to the delinquency proceeding.

11 ~~3-~~ 4. "Delinquency proceeding" means any proceeding commenced against
12 an insurer pursuant to this article for the purpose of liquidating,
13 rehabilitating, reorganizing or conserving such insurer.

14 ~~4-~~ 5. "Domiciliary state" means the state in which an insurer is
15 incorporated or organized, or in the case of an insurer incorporated or
16 organized in a foreign country, the state in which such insurer, having
17 become authorized to do business in such state, has, at the commencement of
18 delinquency proceedings, the largest amount of its assets held in trust and
19 assets held on deposit for the benefit of its policyholders or policyholders
20 and creditors in the United States, and any such insurer is deemed to be
21 domiciled in such state.

22 ~~5-~~ 6. "Foreign country" means territory not in any state.

23 ~~6-~~ 7. "General assets" means all property, real, personal or
24 otherwise, not specifically mortgaged, pledged, deposited or otherwise
25 encumbered for the security or benefit of specified persons or a limited
26 class or classes of persons, and as to such specifically encumbered property
27 the term includes all such property or its proceeds in excess of the amount
28 necessary to discharge the amount or amounts secured thereby. Assets held in
29 trust and assets held on deposit for the security or benefit of all
30 policyholders or all policyholders and creditors in the United States shall
31 be deemed general assets.

32 ~~7-~~ 8. "Impairment" or "insolvency" means that the capital of a stock
33 insurer or limited capital stock insurer, or the surplus of a mutual or
34 reciprocal insurer, shall be deemed to be impaired and the insurer shall be
35 deemed to be insolvent, when such insurer is not possessed of assets at least
36 equal to all liabilities and required reserves together with its total issued
37 and outstanding capital stock if a stock insurer, or the minimum surplus if a
38 mutual or reciprocal insurer, required by this title to be maintained for the
39 kind or kinds of insurance it is then authorized to transact.

40 ~~8-~~ 9. "Insurer" means any person, firm, corporation, association or
41 aggregation of persons doing an insurance business and subject to the
42 insurance supervisory authority of, or to liquidation, rehabilitation,
43 reorganization or conservation by the director or the equivalent insurance
44 supervisory official of another state.

45 10. "NETTING AGREEMENT" MEANS:

1 (a) A CONTRACT OR AN AGREEMENT INCLUDING A MASTER AGREEMENT THAT
2 DOCUMENTS ONE OR MORE TRANSACTIONS BETWEEN THE PARTIES TO THE AGREEMENT FOR
3 OR INVOLVING ONE OR MORE QUALIFIED FINANCIAL CONTRACTS AND THAT PROVIDES FOR
4 THE NETTING, LIQUIDATION, SETOFF, TERMINATION, ACCELERATION OR CLOSE OUT
5 UNDER OR IN CONNECTION WITH ONE OR MORE QUALIFIED FINANCIAL CONTRACTS OR
6 PRESENT OR FUTURE PAYMENT OR DELIVERY OBLIGATIONS OR PAYMENT OR DELIVERY
7 ENTITLEMENTS THEREUNDER, INCLUDING LIQUIDATION OR CLOSE-OUT VALUES RELATING
8 TO SUCH OBLIGATIONS OR ENTITLEMENTS, AMONG THE PARTIES TO THE NETTING
9 AGREEMENT. A MASTER AGREEMENT, TOGETHER WITH ALL SCHEDULES, CONFIRMATIONS,
10 DEFINITIONS AND ADDENDA THERETO AND TRANSACTIONS UNDER ANY THEREOF, SHALL BE
11 TREATED AS ONE NETTING AGREEMENT.

12 (b) ANY MASTER AGREEMENT OR BRIDGE AGREEMENT FOR ONE OR MORE MASTER
13 AGREEMENTS DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH.

14 (c) ANY SECURITY AGREEMENT OR ARRANGEMENT OR OTHER CREDIT ENHANCEMENT
15 OR GUARANTEE OR REIMBURSEMENT OBLIGATION RELATED TO ANY CONTRACT OR AGREEMENT
16 DESCRIBED IN SUBDIVISION (a) OR (b) OF THIS PARAGRAPH. ANY CONTRACT OR
17 AGREEMENT DESCRIBED IN SUBDIVISION (a) OR (b) OF THIS PARAGRAPH RELATING TO
18 AGREEMENTS OR TRANSACTIONS THAT ARE NOT QUALIFIED FINANCIAL CONTRACTS ARE
19 DEEMED TO BE A NETTING AGREEMENT ONLY WITH RESPECT TO THOSE AGREEMENTS OR
20 TRANSACTIONS THAT ARE QUALIFIED FINANCIAL CONTRACTS.

21 ~~9.~~ 11. "Preferred claim" means any claim with respect to which the
22 law of the state or of the United States accords priority of payments from
23 the general assets of the insurer.

24 12. "QUALIFIED FINANCIAL CONTRACT" MEANS ANY COMMODITY CONTRACT,
25 FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CONTRACT, SWAP AGREEMENT
26 AND ANY SIMILAR AGREEMENT THAT THE DIRECTOR DETERMINES BY RULE OR ORDER TO BE
27 A QUALIFIED FINANCIAL CONTRACT FOR THE PURPOSES OF THIS ARTICLE. FOR THE
28 PURPOSES OF THIS PARAGRAPH:

29 (a) "COMMODITY CONTRACT" MEANS:

30 (i) A CONTRACT FOR THE PURCHASE OR SALE OF A COMMODITY FOR FUTURE
31 DELIVERY ON, OR SUBJECT TO THE RULES OF, A BOARD OF TRADE OR CONTRACT MARKET
32 UNDER THE COMMODITY EXCHANGE ACT OR A BOARD OF TRADE OUTSIDE THE UNITED
33 STATES.

34 (ii) AN AGREEMENT THAT IS SUBJECT TO REGULATION UNDER SECTION 19 OF
35 THE COMMODITY EXCHANGE ACT AND THAT IS COMMONLY KNOWN TO THE COMMODITIES
36 TRADE AS A MARGIN ACCOUNT, MARGIN CONTRACT, LEVERAGE ACCOUNT OR LEVERAGE
37 CONTRACT.

38 (iii) AN AGREEMENT OR TRANSACTION THAT IS SUBJECT TO REGULATION UNDER
39 SECTION 6c(b) OF THE COMMODITY EXCHANGE ACT AND THAT IS COMMONLY KNOWN TO THE
40 COMMODITIES TRADE AS A COMMODITY OPTION.

41 (iv) ANY COMBINATION OF THE AGREEMENTS OR TRANSACTIONS REFERRED TO IN
42 THIS PARAGRAPH.

43 (v) ANY OPTION TO ENTER INTO AN AGREEMENT OR TRANSACTION REFERRED TO
44 IN THIS PARAGRAPH.

(b) "FORWARD CONTRACT", "REPURCHASE AGREEMENT", "SECURITIES CONTRACT" AND "SWAP AGREEMENT" HAVE THE SAME MEANINGS PRESCRIBED IN THE FEDERAL DEPOSIT INSURANCE ACT, 12 UNITED STATES CODE SECTION 1821(e)(8)(D), AS AMENDED.

~~10-~~ 13. "Receiver" means the director as receiver, liquidator, rehabilitator or conservator as the context may require.

~~11-~~ 14. "Reciprocal state" means any state other than this state in which in substance and effect the provisions of the uniform insurers liquidation act, as defined in section 20-631, are in force, including the provisions requiring that the director of insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

~~12-~~ 15. "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, including federal, state or local tax liens that are perfected before the commencement of a delinquency proceeding but not including a special deposit claim or claims against general assets. The term also includes claims that more than four months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens on specific assets by reason of judicial process.

~~13-~~ 16. "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

~~14-~~ 17. "State" means any state of the United States, the District of Columbia and the territories and possessions of the United States.

Sec. 2. Section 20-614, Arizona Revised Statutes, is amended to read:

20-614. Injunctions

A. Upon application by the director for an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers and agents and all other persons from the transaction of its business or the waste or disposition of its property until further order of the court.

B. The court may at any time during a proceeding under this article issue such other injunctions or orders as is deemed necessary to prevent any of the following:

1. Interference with the receiver or the proceeding.
2. The waste of the assets of the insurer.
3. The commencement or prosecution of any actions.
4. The obtaining of preferences, judgments, attachments or other liens.
5. The making of any levy against the insurer or against its assets or any part of its assets.

C. AN INJUNCTION ISSUED PURSUANT TO SUBSECTION A OR B OF THIS SECTION DOES NOT OPERATE TO ENJOIN OR PROHIBIT ANY RIGHT TO CAUSE THE NETTING, LIQUIDATION, SETOFF, TERMINATION, ACCELERATION OR CLOSE OUT OF OBLIGATIONS OR ENFORCEMENT OF ANY SECURITY AGREEMENT OR ARRANGEMENT OR OTHER CREDIT

1 ENHANCEMENT OR GUARANTEE OR REIMBURSEMENT OBLIGATION UNDER OR IN CONNECTION
2 WITH ANY NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT AS PROVIDED IN
3 SECTION 20-637.

4 ~~C.~~ D. The court may also prescribe exclusive conditions and
5 procedures for access to information from the receiver including procedures
6 for the inspection or copying of the records of the insurer or receiver. The
7 court may not place conditions on a reinsurer's contract rights to access to
8 claim files other than the payment of reasonable charges for locating and
9 copying the records.

10 ~~D.~~ E. Notwithstanding any other provision of law, no bond shall be
11 required of the director or receiver as a prerequisite for the issuance of
12 any injunction or restraining order pursuant to this section or for the
13 filing of any appeal or other action for which a bond may be required.

14 Sec. 3. Section 20-631, Arizona Revised Statutes, is amended to read:

15 20-631. Uniform insurers liquidation act

16 A. Section 20-611, paragraphs 1, ~~3- 4~~ through ~~6 and 8~~ 7, 9, 11, 13
17 through ~~14~~ 17 and sections 20-613, 20-614, 20-624, 20-625, 20-626, 20-627,
18 20-628, 20-629 and 20-630 are and may be cited as the uniform insurers
19 liquidation act.

20 B. The uniform insurers liquidation act shall be so interpreted and
21 construed as to effectuate its general purpose to make uniform the law of
22 those states that enact it. To the extent that its provisions when
23 applicable conflict with other provisions of this article the provisions of
24 such act shall control.

25 Sec. 4. Title 20, chapter 3, article 4, Arizona Revised Statutes, is
26 amended by adding section 20-637, to read:

27 20-637. Qualified financial contracts; definition

28 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A PERSON SHALL
29 NOT BE ENJOINED OR PROHIBITED FROM EXERCISING:

30 1. A CONTRACTUAL RIGHT TO CAUSE THE TERMINATION, LIQUIDATION,
31 ACCELERATION OR CLOSE OUT OF OBLIGATIONS UNDER OR IN CONNECTION WITH ANY
32 NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT WITH AN INSURER BECAUSE OF
33 EITHER:

34 (a) THE INSOLVENCY, FINANCIAL CONDITION OR DEFAULT OF THE INSURER AT
35 ANY TIME IF THE RIGHT IS ENFORCEABLE UNDER APPLICABLE LAW OTHER THAN THIS
36 ARTICLE.

37 (b) THE COMMENCEMENT OF A FORMAL DELINQUENCY PROCEEDING UNDER THIS
38 ARTICLE.

39 2. ANY RIGHT UNDER A PLEDGE, SECURITY, COLLATERAL, REIMBURSEMENT OR
40 GUARANTEE AGREEMENT OR ARRANGEMENT OR ANY OTHER SIMILAR SECURITY AGREEMENT OR
41 ARRANGEMENT OR OTHER CREDIT ENHANCEMENT RELATING TO ONE OR MORE NETTING
42 AGREEMENTS OR QUALIFIED FINANCIAL CONTRACTS.

43 3. SUBJECT TO SECTION 20-638, SUBSECTION B, ANY RIGHT TO OFFSET OR NET
44 OUT ANY TERMINATION VALUE, PAYMENT AMOUNT OR OTHER TRANSFER OBLIGATION
45 ARISING UNDER OR IN CONNECTION WITH ONE OR MORE QUALIFIED FINANCIAL CONTRACTS

1 WHERE THE COUNTERPARTY OR ITS GUARANTOR IS ORGANIZED UNDER THE LAWS OF THE
2 UNITED STATES OR A STATE OR A FOREIGN JURISDICTION APPROVED BY THE SECURITIES
3 VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AS
4 ELIGIBLE FOR NETTING.

5 B. IF A COUNTERPARTY TO A MASTER NETTING AGREEMENT OR A QUALIFIED
6 FINANCIAL CONTRACT WITH AN INSURER SUBJECT TO A PROCEEDING UNDER THIS ARTICLE
7 TERMINATES, LIQUIDATES, CLOSES OUT OR ACCELERATES THE AGREEMENT OR CONTRACT,
8 DAMAGES SHALL BE MEASURED AS OF THE DATE OR DATES OF TERMINATION,
9 LIQUIDATION, CLOSE OUT OR ACCELERATION. THE AMOUNT OF A CLAIM FOR DAMAGES
10 SHALL BE ACTUAL DIRECT COMPENSATORY DAMAGES CALCULATED PURSUANT TO SUBSECTION
11 H OF THIS SECTION.

12 C. ON TERMINATION OF A NETTING AGREEMENT OR QUALIFIED FINANCIAL
13 CONTRACT, THE NET OR SETTLEMENT AMOUNT OWED BY A NONDEFAULTING PARTY TO AN
14 INSURER AGAINST WHICH A PROCEEDING UNDER THIS ARTICLE HAS BEEN COMMENCED
15 SHALL BE TRANSFERRED TO OR ON THE ORDER OF THE RECEIVER FOR THE INSURER, EVEN
16 IF THE INSURER IS THE DEFAULTING PARTY, NOTWITHSTANDING ANY WALKAWAY CLAUSE
17 IN THE NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT. ANY LIMITED
18 TWO-WAY PAYMENT OR FIRST METHOD PROVISION IN A NETTING AGREEMENT OR QUALIFIED
19 FINANCIAL CONTRACT WITH AN INSURER THAT HAS DEFAULTED SHALL BE DEEMED TO BE A
20 FULL TWO-WAY PAYMENT OR SECOND METHOD PROVISION AS AGAINST THE DEFAULTING
21 INSURER. ANY SUCH PROPERTY OR AMOUNT SHALL BE A GENERAL ASSET OF THE
22 INSURER, EXCEPT TO THE EXTENT IT IS SUBJECT TO ONE OR MORE SECONDARY LIENS OR
23 ENCUMBRANCES OR RIGHTS OF NETTING OR OFFSET. FOR THE PURPOSES OF THIS
24 SUBSECTION, "WALKAWAY CLAUSE" MEANS A PROVISION IN A NETTING AGREEMENT OR A
25 QUALIFIED FINANCIAL CONTRACT THAT, AFTER CALCULATION OF A VALUE OF A PARTY'S
26 POSITION OR AN AMOUNT DUE TO OR FROM ONE OF THE PARTIES IN ACCORDANCE WITH
27 ITS TERMS ON TERMINATION, LIQUIDATION OR ACCELERATION OF THE NETTING
28 AGREEMENT OR QUALIFIED FINANCIAL CONTRACT, EITHER DOES NOT CREATE A PAYMENT
29 OBLIGATION OF A PARTY OR EXTINGUISHES A PAYMENT OBLIGATION OF A PARTY IN
30 WHOLE OR IN PART SOLELY BECAUSE OF THE PARTY'S STATUS AS A NONDEFAULTING
31 PARTY.

32 D. IN MAKING ANY TRANSFER OF A NETTING AGREEMENT OR QUALIFIED
33 FINANCIAL CONTRACT OF AN INSURER SUBJECT TO A PROCEEDING UNDER THIS ARTICLE,
34 THE RECEIVER SHALL EITHER:

35 1. TRANSFER TO ONE PARTY, OTHER THAN AN INSURER SUBJECT TO A
36 PROCEEDING UNDER THIS ARTICLE, ALL NETTING AGREEMENTS AND QUALIFIED FINANCIAL
37 CONTRACTS BETWEEN A COUNTERPARTY OR ANY AFFILIATE OF THE COUNTERPARTY AND THE
38 INSURER THAT IS THE SUBJECT OF THE PROCEEDING INCLUDING:

39 (a) ALL RIGHTS AND OBLIGATIONS OF EACH PARTY UNDER EACH NETTING
40 AGREEMENT AND QUALIFIED FINANCIAL CONTRACT.

41 (b) ALL PROPERTY, INCLUDING ANY GUARANTEES OR OTHER CREDIT
42 ENHANCEMENT, SECURING ANY CLAIMS OF EACH PARTY UNDER EACH NETTING AGREEMENT
43 AND QUALIFIED FINANCIAL CONTRACT.

44 2. TRANSFER NONE OF THE NETTING AGREEMENTS, QUALIFIED FINANCIAL
45 CONTRACTS, RIGHTS, OBLIGATIONS OR PROPERTY REFERRED TO IN PARAGRAPH 1 OF THIS

1 SUBSECTION WITH RESPECT TO THE COUNTERPARTY AND ANY AFFILIATE OF THE
2 COUNTERPARTY.

3 E. IF THE RECEIVER MAKES A TRANSFER OF ONE OR MORE NETTING AGREEMENTS
4 OR QUALIFIED FINANCIAL CONTRACTS, THE RECEIVER SHALL USE ITS BEST EFFORTS TO
5 NOTIFY ANY PERSON WHO IS A PARTY TO THE NETTING AGREEMENTS OR QUALIFIED
6 FINANCIAL CONTRACTS OF THE TRANSFER BY NOON IN THE RECEIVER'S LOCAL TIME ON
7 THE BUSINESS DAY FOLLOWING THE TRANSFER. FOR THE PURPOSES OF THIS
8 SUBSECTION, "BUSINESS DAY" MEANS A DAY OTHER THAN A SATURDAY, SUNDAY OR OTHER
9 DAY ON WHICH EITHER THE NEW YORK STOCK EXCHANGE OR THE FEDERAL RESERVE BANK
10 OF NEW YORK IS CLOSED.

11 F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE RECEIVER
12 MAY NOT AVOID A TRANSFER OF MONEY OR OTHER PROPERTY ARISING UNDER OR IN
13 CONNECTION WITH A NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT OR ANY
14 PLEDGE, SECURITY, COLLATERAL OR GUARANTEE AGREEMENT OR ANY OTHER SIMILAR
15 SECURITY ARRANGEMENT OR CREDIT SUPPORT DOCUMENT RELATING TO A NETTING
16 AGREEMENT OR QUALIFIED FINANCIAL CONTRACT THAT IS MADE BEFORE THE
17 COMMENCEMENT OF A DELINQUENCY PROCEEDING UNDER THIS ARTICLE. HOWEVER, A
18 TRANSFER MAY BE AVOIDED UNDER SECTION 20-636, SUBSECTION C IF THE TRANSFER
19 WAS MADE WITH ACTUAL INTENT TO HINDER, DELAY OR DEFRAUD THE INSURER, A
20 RECEIVER APPOINTED FOR THE INSURER OR EXISTING OR FUTURE CREDITORS.

21 G. IN DISAFFIRMING OR REPUDIATING ANY NETTING AGREEMENT OR QUALIFIED
22 FINANCIAL CONTRACT TO WHICH AN INSURER IS A PARTY, THE RECEIVER FOR THE
23 INSURER SHALL EITHER:

24 1. DISAFFIRM OR REPUDIATE ALL NETTING AGREEMENTS AND QUALIFIED
25 FINANCIAL CONTRACTS BETWEEN A COUNTERPARTY OR ANY AFFILIATE OF THE
26 COUNTERPARTY AND THE INSURER THAT IS THE SUBJECT OF THE PROCEEDING.

27 2. DISAFFIRM OR REPUDIATE NONE OF THE NETTING AGREEMENTS AND QUALIFIED
28 FINANCIAL CONTRACTS REFERRED TO IN PARAGRAPH 1 OF THIS SUBSECTION WITH
29 RESPECT TO THE PERSON OR ANY AFFILIATE OF THE PERSON.

30 H. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ANY CLAIM OF A
31 COUNTERPARTY AGAINST THE ESTATE ARISING FROM THE RECEIVER'S DISAFFIRMANCE OR
32 REPUDIATION OF A NETTING AGREEMENT OR QUALIFIED FINANCIAL CONTRACT THAT HAS
33 NOT BEEN PREVIOUSLY AFFIRMED IN THE PROCEEDING UNDER THIS ARTICLE SHALL BE
34 DETERMINED AND SHALL BE ALLOWED OR DISALLOWED AS IF THE CLAIM HAD ARISEN
35 BEFORE THE DATE OF THE COMMENCEMENT OF A PROCEEDING UNDER THIS ARTICLE. THE
36 AMOUNT OF THE CLAIM SHALL BE THE ACTUAL DIRECT COMPENSATORY DAMAGES
37 DETERMINED AS OF THE DATE OF THE DISAFFIRMANCE OR REPUDIATION OF THE NETTING
38 AGREEMENT OR QUALIFIED FINANCIAL CONTRACT. FOR THE PURPOSES OF THIS
39 SUBSECTION, "ACTUAL DIRECT COMPENSATORY DAMAGES":

40 1. DOES NOT INCLUDE PUNITIVE OR EXEMPLARY DAMAGES, DAMAGES FOR LOST
41 PROFIT OR LOST OPPORTUNITY OR DAMAGES FOR PAIN AND SUFFERING.

42 2. INCLUDES NORMAL AND REASONABLE COSTS OF COVER OR OTHER REASONABLE
43 MEASURES OF DAMAGES USED IN THE DERIVATIVES, SECURITIES OR OTHER MARKET FOR
44 THE CONTRACT AND AGREEMENT CLAIMS.

1 I. THIS SECTION DOES NOT APPLY TO PERSONS WHO ARE AFFILIATES OF THE
2 INSURER THAT IS THE SUBJECT OF THE PROCEEDING.

3 J. ALL RIGHTS OF COUNTERPARTIES UNDER THIS ARTICLE APPLY TO NETTING
4 AGREEMENTS AND QUALIFIED FINANCIAL CONTRACTS ENTERED INTO ON BEHALF OF THE
5 GENERAL ACCOUNT OR SEPARATE ACCOUNTS IF THE ASSETS OF EACH SEPARATE ACCOUNT
6 ARE AVAILABLE ONLY TO COUNTERPARTIES TO NETTING AGREEMENTS AND QUALIFIED
7 FINANCIAL CONTRACTS ENTERED INTO ON BEHALF OF THAT SEPARATE ACCOUNT.

8 K. FOR THE PURPOSES OF THIS SECTION, "CONTRACTUAL RIGHT" INCLUDES:

9 1. ANY RIGHT SET FORTH:

10 (a) IN A RULE OR BYLAW OF A DERIVATIVES CLEARING ORGANIZATION AS
11 DEFINED IN THE COMMODITY EXCHANGE ACT, A MULTILATERAL CLEARING ORGANIZATION
12 AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF
13 1991 (12 UNITED STATES CODE SECTION 4421), A NATIONAL SECURITIES EXCHANGE, A
14 NATIONAL SECURITIES ASSOCIATION, A SECURITIES CLEARING AGENCY, A CONTRACT
15 MARKET DESIGNATED UNDER THE COMMODITY EXCHANGE ACT, A DERIVATIVES TRANSACTION
16 EXECUTION FACILITY REGISTERED UNDER THE COMMODITY EXCHANGE ACT OR A BOARD OF
17 TRADE AS DEFINED IN THE COMMODITY EXCHANGE ACT.

18 (b) IN A RESOLUTION OF THE GOVERNING BOARD OF ANY ENTITY DESCRIBED IN
19 SUBDIVISION (a) OF THIS PARAGRAPH.

20 2. ANY RIGHT, WHETHER OR NOT EVIDENCED IN WRITING, ARISING UNDER
21 STATUTORY OR COMMON LAW, OR UNDER LAW MERCHANT OR BY REASON OF NORMAL
22 BUSINESS PRACTICE.

APPROVED BY THE GOVERNOR APRIL 12, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2011.

Passed the House February 21, 2011

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 5, 2011

by the following vote: 18 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

Charmian Belding
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

6 day of April, 20 11

at 10:30 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 12th day of

April

at 9:05 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12th day of April, 20 11

at 4:01 o'clock P. M.

[Signature]
Secretary of State

H.B. 2113